

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: : Case No. 23-52859
:
S&G HOSPITALITY, INC., et al.,¹ : Chapter 11
:
Debtors. : Judge Nami Khorrami

**JOINT MOTION FOR ENTRY OF AGREED ORDER MODIFYING AUTOMATIC
STAY TO PERMIT REISSUANCE OF CHECK**

Now come Debtor Sunburst Hotels, LLC (“Sunburst”), creditor Westfield Insurance (“Westfield”) / American Select Insurance Company (“American Select”), and party-in-interest The First Citizens National Bank (the “Bank” and with the Debtor and Westfield, the “Movants”), by and through counsel, who hereby jointly move for entry of the attached Agreed Order Modifying Automatic Stay To Permit Reissuance of Check (the “Agreed Order”) pursuant to 11 U.S.C. § 362(d). In support of this Motion, the Movants state as follows:

1. Westfield’s subsidiary, American Select, issued a business-owners insurance policy no. BOP8502210 (the “Policy”) to Sunburst effective from November 18, 2018 to November 18, 2019. Sunburst submitted two claims under the Policy (collectively the “Claims”) related to a weather event that occurred between February 24, 2019 and September 1, 2019 for damage to property located at 7500 Vantage Drive, Columbus, Ohio 43235² (the “Property”).

2. Related to the Claims, Sunburst filed a case against American Select in the Franklin County Court of Common Pleas. This case was captioned *Sunburst Hotels LLC v. American Select Insurance Company*, Case No. 21CV001053 (the “Litigation”).

¹ The Debtors and the last four digits of their federal tax identification numbers are as follows: S&G Hospitality, Inc. (4566), Buckeye Lodging, LLC (6047), Lancaster Hospitality, LLC (8830), and Sunburst Hotels, LLC (0374). The Debtors’ headquarters is located at 7500 Vantage Drive, Columbus, Ohio 43235.

3. In the spring of 2023, Sunburst and American Select reached agreement on a settlement of the Claims, the Litigation, and all claims that were or could have been brought in the Litigation. American Select and Sunburst executed a Settlement Agreement which governed the release and settlement of the Claims, the Litigation, and all claims that were or could have been brought in the Litigation. The Settlement Agreement specifically states that Westfield shall make all checks and/or drafts payable to: Sunburst Hotels, LLC dba Quality Inn & Suites c/ InnVite Hospitality and Wells Fargo Bank, NA. On July 17, 2023, Westfield on behalf of its affiliate American Select issued check no. 0700372257 in the amount of \$165,412.42 payable to Sunburst and Wells Fargo Bank NA (the “Check”), which check represented a payment due from Westfield’s subsidiary, American Select, to Sunburst (the “Insurance Proceeds”) under the Settlement Agreement.

4. On August 14, 2023, Sunburst presented the Check to the Bank for deposit into Sunburst’s account with Bank. After accepting the Check for deposit, Bank asserted that since the Check had only been endorsed by Sunburst and not Wells Fargo Bank NA and it should not have been accepted for deposit.

5. Sunburst filed its petition for relief under Chapter 11 on August 18, 2023 (the “Petition Date”), commencing case no. 23-52863, which case is currently jointly administered under case no. 23-52859 with the caption *In re S&G Hospitality, Inc., et al.*

6. Bank has held the money in Sunburst’s account with Bank pending instructions from Westfield and Sunburst on how to proceed.

7. Sunburst is otherwise not utilizing the account at Bank and wants the account closed and the funds returned to Westfield so that it can reissue the settlement payment.

8. As is set forth in the attached Agreed Order, Westfield, Sunburst, and the Bank have agreed that the Insurance Proceeds should be returned to Westfield so that Westfield may reissue the Check in accordance with the terms of the Settlement Agreement and Policy. To accomplish this, the Movants seek limited relief from the automatic stay to permit the transfers contemplated by the Movants' agreement.

9. Section 362(d)(1) of the Bankruptcy Code permits the Court to grant relief from the automatic stay, including modification of the stay, for cause.

10. Rule 4001(d)(1) permits parties to seek approval of an agreement to modify the automatic stay by motion. Under Rule 4001(d)(2), objections must be filed within 14 days of the mailing of the notice of the motion. Under Rule 4001(d)(1)(C) and LBR 9013-3(b), the only parties required to be served are the Debtor, the Debtor's attorney, the Trustee, the United States trustee, creditors included on the 20 Largest List of Creditors filed under Rule 1007(d), and any party who specifically requested notice.

11. Because this motion is brought under Rule 4001(d), the 14-day stay under Rule 4001(a)(3) does not apply.

WHEREFORE, the Movants request that the Court enter the Agreed Order and for such further relief as is just and proper.

Respectfully submitted,

/s/ David Alan Beck

David Alan Beck (0072868)

CARPENTER LIPPS LLP

280 North High Street, Suite 1300

Columbus, OH 43215

Telephone: 614-365-4142

Facsimile: (614) 365-9145

beck@carpenterlipps.com

Counsel for the Debtor

/s/ Sunny L. Horacek

Sunny L. Horacek (0089178)

COLLINS, ROCHE, UTLEY & GARNER

655 Metro Place South, Suite 200

Dublin, OH 43017

614-652-5506

shoracek@cruglaw.com

Counsel for Westfield Insurance

/s/ John C. Cannizzaro

John C. Cannizzaro (0085161)

ICE MILLER LLP

250 West Street, Suite 700

Columbus, OH 43215

614-462-1070

john.cannizzaro@icemiller.com

Counsel for The First Citizens National Bank

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 14, 2024, service of the foregoing was made by U.S. Mail to the addressees listed on the attachment hereto and by electronic filing with the Clerk of the United States Bankruptcy Court, using the CM/ECF system, which will send notification of such filing to the parties listed below:

- **Pamela Arndt** Pamela.D.Arndt@usdoj.gov
- **Asst US Trustee (Col)** ustpreion09.cb.ecf@usdoj.gov
- **David Alan Beck** beck@carpenterlipps.com
- **Caitlin Conklin** caitlin.conklin@klgates.com
- **Daniel M Eliades** daniel.eliaades@klgates.com
- **Tami Hart Kirby** tkirby@porterwright.com,
wreynolds@porterwright.com;ahiggins@porterwright.com;tschreckengost@po
rterwright.com;erickard@porterwright.com
- **Noah M Schottenstein** noah.schottenstein@us.dlapiper.com,
DLAPiper@ecfxmail.com
- **Paul Schumacher** pschumacher@dmclaw.com, tgross@dmclaw.com

/s/ John C. Cannizzaro
John C. Cannizzaro (0085161)

MAIL SERVICE LIST

ITRIA VENTURES LLC
ONE PENN PLAZA SUITE 3101
NEW YORK, NY 10119

COLUMBIA GAS
PO BOX 4629
CAROL STREAM, IL, 60197

SMALL BUSINESS ADMINISTRATION
SANTA ANA LOAN LIQUIDATION
CENTER
200 W SANTA ANA BLVD STE 740
SANTA ANA, CA 92701

KNIGHT CAPITAL FUNDING
9 E LOOCKERMAN STREET, SUITE 202-
542
DOVER, DE 19901

CHOICE HOTELS
PO BOX 99992
CHICAGO, IL 60696

U.S. SMALL BUSINESS
ADMINISTRATION
OFFICE OF THE GENERAL COUNSEL
409 THIRD STREET, SW
WASHINGTON, DC 20416

NIMBLE ACCOUNTING
200 MOTOR PARKWAY SUITE D-26
HAUPPAUGE, NY 11788

U.S. SMALL BUSINESS
ADMINISTRATION
2 NORTH STREET, SUITE 320
BIRMINGHAM, AL 35203

HD SUPPLIES
PO BOX 509058
SAN DIEGO, CA 92150-9058

GREEN CAPITAL FUNDING LLC
116 NASSAU STREET, SUITE 804
NEW YORK, NY, 10038

US FOODS
98761 COLLECTIONS CTR DR
CHICAGO, IL 60693-8761

STEVEN J COVERT
3791 ATTUCKS DRIVE
POWELL, OH 43065

AEP
PO BOX 371496
PITTSBURGH, PA 15250

CHARTER COMMUNICATIONS
PO BOX 6030
CAROL STREAM, IL 60197

CHASE CARD SERVICES
PO BOX 6294
CAROL STREAM, IL 60197-6294

CITY OF COLUMBUS
PO BOX 182882
COLUMBUS, OH 43218

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: : Case No. 23-52859
:
S&G HOSPITALITY, INC., et al.,¹ : Chapter 11
:
Debtors. : Judge Nami Khorrami

**NOTICE OF JOINT MOTION FOR ENTRY OF AGREED ORDER MODIFYING
AUTOMATIC STAY TO PERMIT REISSUANCE OF CHECK**

Debtor Sunburst Hotels, LLC (“Sunburst”), creditor Westfield Insurance (“Westfield”), and party-in-interest The First Citizens National Bank (the “Bank” and with Westfield and Sunburst, the “Movants”), have filed papers with the Court to obtain entry of an order modifying the automatic stay to permit the return of and reissuance of a check for insurance proceeds.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the Movants’ motion, then on or before **14 days from the date set forth in the certificate of service for the motion**, you must file with the Court a response explaining your position by filing your response using the court’s ECF System or by mailing your response by first class mail to:

U.S. Bankruptcy Court Clerk’s Office
170 N. High Street
Columbus, OH 43215

The Court must **receive** your response on or before the above date.

You must also mail or hand-deliver a copy of your response to the Movants either by (a) the Court’s ECF System or (b) by first-class mail to:

David A. Beck
CARPENTER LIPPS LLP
280 N. High Street Suite 1300
Columbus, Ohio 43215

Sunny L. Horacek
COLLINS, ROCHE, UTLEY & GARNER
655 Metro Place South, Suite 200
Dublin, OH 43017

John C. Cannizzaro
ICE MILLER LLP
250 West Street, Suite 700
Columbus, OH 43215

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion/objection and may enter an order granting that relief without further hearing or notice.

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